

How ProPublica Analyzed Pardon Data

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Collecting the data

ProPublica's project on presidential pardons relied on data about individuals who were denied and granted pardons during the George W. Bush administration. As a matter of practice, his advisers said, President Bush relied almost exclusively on recommendations from the Office of the Pardon Attorney inside the Justice Department. The data thus provide an opportunity to assess the office's impact on final pardon decisions.

Through a Freedom of Information Act request, ProPublica obtained the names of petitioners who were denied pardons during Bush's two terms — 1,729 individuals. The names of 189 petitioners who received pardons came from the pardon office website. ProPublica pulled a random sample of 500 names from the combined list. Because some could not be found, the final sample numbered 494. For each of these individuals, the White House followed the pardon office's recommendation to grant or deny a pardon.

For all those in the sample, ProPublica staff and freelance researchers searched public records or made phone contacts to gather demographic data such as age, race, gender and marital status. Researchers gathered sentencing information from federal court records and FOIA requests, and searched other records to collect data on bankruptcies, liens, financial judgments and any additional criminal history.

Although we attempted to achieve complete background checks, it is possible that some petitioners had committed crimes that were too old to be in electronic databases, had records expunged or committed crimes in areas where there is no public access to criminal records.

In response to a separate Freedom of Information Act request, the Justice Department released correspondence from 196 members of Congress to the Office of the Pardon Attorney during Bush's two terms. This allowed reporters to compare pardon outcomes with congressional contacts and political contributions data.

The federal pardons process

According to the Office of the Pardon Attorney, pardons are granted “on the basis of the petitioner's demonstrated good conduct for a substantial period of time after conviction and service of sentence.”

A petitioner must wait five years after conviction or release from confinement (whichever is later) before applying. First among factors the office considers is “post-conviction conduct, character, and reputation,” which is defined as the “ability to lead a responsible and productive life for a significant period after conviction or release.”

The pardon office website says examinations focus on “financial and employment stability, responsibility toward family, reputation in the community, participation in community service, charitable or other meritorious activities and, if applicable, military record.”

Interviews with current and former Justice Department lawyers established that important factors include whether the applicant was married and financially stable. As a proxy for financial stability, we used bankruptcies and liens. Other factors the office considers important include the type of offense and how recently it occurred, both of which could be determined from court and prison records.

The office also weighs factors that are difficult to quantify. These include the extent to which a petitioner has accepted responsibility for his or her criminal conduct and whether a pardon is needed, either for a job or another reason. A complete description of pardon standards can be found at the [Office of the Pardon Attorney's website](#).

Our statistical analysis

We conducted a binary logistic regression. The dependent variable was whether the petitioner received a pardon. We tested all other available variables against the outcome. In the end, variables that we included in the analysis were:

- race;
- number of years from sentencing to petition;
- offense;
- sentence;
- gender;
- marital status;
- whether the petitioner had a bankruptcy;
- whether the petitioner had a lien or judgment filed against him or her;
- whether the crime was committed while the petitioner was in the military;
- whether an elected official sent a letter to the pardon attorney on the petitioner's behalf.

In raw percentages, our analysis found that 12 percent of white petitioners and 10 percent of Hispanics were pardoned. No African-Americans in our sample received a pardon.

Other variables that showed a positive relationship with being pardoned were:

- Time since sentence — As the length of time between petition and sentence increased, so did likelihood of being pardoned.
- Sentence — Those who received probation instead of prison time were likelier to be pardoned.
- Marital status — Married petitioners were likelier to be pardoned.
- Congressional letter — Petitioners with a letter from a member of Congress to the pardon office were likelier to be pardoned.

But accounting for the effects of these variables did not eliminate the strong influence of race on getting a pardon. After testing all available variables, we found that whites were still nearly four times as likely to be pardoned as minorities overall.

We were unable to determine the race for 20 people in our sample. None of the individuals in that subgroup was granted a pardon, so we created “what if” variables — “what if white” and

“what if black” — to test the impact of race. Neither test significantly changed the finding that whites had far greater odds of getting a pardon.

Hispanic petitioners are classified as white in most federal court and prison records. To identify Hispanics in our sample, we relied on Hispanic surname or race as designated in other public records.

Several experts reviewed our methodology and findings: George Woodworth, emeritus professor of statistics and actuarial science at the University of Iowa; Jack Glaser, associate professor of public policy at the University of California, Berkeley; Mary Rose, associate professor at the University of Texas at Austin School of Law; and Richard Rosenfeld, professor of criminology at the University of Missouri-St. Louis.

Following are descriptive statistics and the result of our logistic regression:

Descriptives

	<u>TOTAL</u>	<u>GRANTED</u>	<u>% GRANTED</u>
Married	329	39	12%
Not married	149	8	5%

Sentence

	<u>TOTAL</u>	<u>GRANTED</u>	<u>% GRANTED</u>
Prison	288	21	7%
Probation only	186	23	12%

Subsequent crime found for petitioner

	<u>TOTAL</u>	<u>GRANTED</u>	<u>% GRANTED</u>
Subsequent crime	119	7	6%
No subsequent crime found	367	40	11%

Correspondence sent on petitioner's behalf

	<u>TOTAL</u>	<u>GRANTED</u>	<u>% GRANTED</u>
Correspondence	44	9	20%
No correspondence	450	38	8%

Offense

	<u>TOTAL</u>	<u>GRANTED</u>	<u>% GRANTED</u>
Financial crime	99	10	10%
Theft/larceny	35	7	20%
Other	71	5	7%
Fraud	135	8	6%
Drug-related	114	11	10%
Weapons-related	39	2	5%
Violent crime	20	1	5%

Individuals may have committed multiple crimes or have crime

Financial problems

Bankruptcy	92	3	3%
Lien or judgment	180	8	4%

Years since sentencing

	<u>TOTAL</u>	<u>GRANTED</u>	<u>% GRANTED</u>
20+	91	23	25%
10 to 19	191	19	10%
Less 10	200	4	2%
Unknown *	12	1	8%

** Small sample, interpret with caution.*

Regression variables

Nagelkerke pseudo R square: .29

Hosmer and Lemeshow Goodness of fit:

p=.42

<u>Variable</u>	<u>B</u>	<u>S.E.</u>	<u>Wald</u>	<u>Sig.</u>	<u>Exp(B)</u>	<u>Reference category</u>
Non-Hispanic White	1.31	0.58	5.18	0.02	3.71	All minorities
Probation only	0.81	0.38	4.51	0.03	2.25	
Military-related crime	1.05	0.77	1.85	0.17	2.84	
Female	0.77	0.52	2.24	0.13	2.17	
No subsequent crimes found	0.49	0.51	0.92	0.34	1.63	
Correspondence written on petitioner's behalf	1.14	0.48	5.74	0.02	3.12	
Married	0.73	0.46	2.51	0.11	2.08	
No bankruptcy found	1.06	0.67	2.52	0.11	2.89	
No lien or judgement found	0.88	0.43	4.11	0.04	2.40	
CRIMES	-					
Financial crime	0.19	0.52	0.14	0.71	0.82	
Drug-related	0.14	0.58	0.06	0.81	0.87	
Gambling/racketeering	0.91	1.17	0.61	0.44	0.40	
Weapons-related	1.34	0.89	2.28	0.13	0.26	
Theft/larceny	0.04	0.66	0.00	0.96	0.96	
Fraud	0.91	0.53	2.95	0.09	0.40	
Other	0.83	0.64	1.69	0.19	0.43	Violent crimes/threat
20 years or more since sentencing	1.76	0.37	22.15	0.00	5.82	
Constant	-	1.10	35.47	0.00		

Shading indicates significant at $p < .05$

Explanation of variables

Subsequent crime: Using public records, internal documents, interviews and news stories, we determined whether applicants broke the law — state or federal — again after the crime for which they sought a pardon. Those with a subsequent crime were less likely to be granted a pardon.

Bankruptcies/liens: Using public records, internal documents, interviews and news stories, we determined whether petitioners had filed for bankruptcy or had a lien filed against them. These applicants were less likely to be granted a pardon.

Letter/correspondence from elected official: We obtained congressional correspondence to/from the pardon office through a FOIA request. In some cases, members of Congress wrote letters supporting the petitioner's pardon. In other cases, the member forwarded the petitioner's application. We found that petitioners for whom correspondence was submitted were more likely to be pardoned.

Hispanic: Federal Bureau of Prisons records classify anyone who is Hispanic as white. To identify Hispanics in our sample, we used other public records and interviews. We also classified individuals with Hispanic surnames as Hispanic. Although not statistically significant in the regression, these individuals had a higher rate of pardons than other minorities.

Years from sentence to petition: In most cases in our sample, we know the sentencing date. We did not have offense dates. The number of years between the sentence and the pardon petition was used to determine how long ago the crime occurred, which officials say is one factor that is considered in a pardon application. As time from the sentencing increased, so did the likelihood of a pardon.

Age at petition: This is the estimated age of the petitioner at the time he or she applied for a pardon. Because some petitions take several years for review, it may not be the age of the petitioner at the time a pardon decision was made.

Sentence: Many petitioners received both prison and probation. We found those that received only probation had a higher rate of pardons. We also tested whether the length of the sentence — both prison and probation — had an effect on the grant rate, and did not find a significant pattern.